

designated open space or recreational use;

(B) A public rest room; or

(C) A structure that is compatible with open space, recreational, or wetlands management usage and proper floodplain management policies and practices, which the Administrator of FEMA approves in writing before the construction of the structure begins.

(D) In general, allowable open space, recreational, and wetland management uses include parks for outdoor recreational activities, nature reserves, cultivation, grazing, camping (except where adequate warning time is not available to allow evacuation), temporary storage in the open of wheeled vehicles that are easily movable (except mobile homes), unimproved, permeable parking lots and buffer zones. Allowable uses generally do not include walled buildings, flood reduction levees, highways or other uses that obstruct the natural and beneficial functions of the floodplain.

(3) After completing the acquisition project, no application for future disaster assistance will be made for any purpose with respect to the property to any Federal entity or source, and no Federal entity or source will provide such assistance, even for the allowable uses of the property described above.

(4) Any structures built on the property according to paragraph (i)(2) of this section, must be: Located to minimize the potential for flood damage; floodproofed; or elevated to the Base Flood Elevation plus one foot of freeboard.

(5) The subgrantee or other public property owner will seek the approval of the State grantee agency and our Regional Administrator before conveying any interest in the property to any other party. The subgrantee or other public entity or qualified private nonprofit organization must retain all development rights to the property. Our Regional Administrator will only approve the transfer of properties that meet the criteria identified in this paragraph.

(6) In order to carry out tasks associated with monitoring, we, the subgrantee, or the State have the right to enter the parcel, with notice to the parcel owner, to ensure compliance

with land use restrictions. Subgrantees may identify the open space nature of the property on local tax maps to assist with monitoring. Whether the subgrantee obtains full title or a conservation easement on the parcel, the State must work with subgrantees to ensure that the parcel owner maintains the property in accordance with land use restrictions. Specifically, the State may:

(i) Monitor and inspect the parcel every two years and certify that the owner continues to use the inspected parcel for open space or agricultural purposes; and

(ii) Take measures to bring a non-compliant parcel back into compliance within 60 days of notice.

(7) Only as a last resort, we reserve the right to require the subgrantee to bring the property back into compliance and transfer the title and easement to a qualified third party for future maintenance.

(8) Every 2 years on October 1st, the subgrantee will report to the State, certifying that the property continues to be maintained consistent with the provisions of the agreement. The State will report the certification to us.

[66 FR 32669, June 15, 2001, as amended at 74 FR 15353, Apr. 3, 2009]

§ 209.11 Grant administration.

(a) *Cost share.* We may contribute up to 75 percent of the total eligible costs. The State must ensure that non-Federal sources contribute not less than 25 percent of the total eligible costs for the grant. The State or any subgrantee cannot use funds that we provide under this Act as the non-Federal match for other Federal funds nor can the State or any subgrantee use other Federal funds as the required non-Federal match for these funds, except as provided by statute.

(b) *Allowable costs.* A State may find guidance on allowable costs for States and subgrantees in Office of Management and Budget (OMB) Circulars A–87 and A–122 on Cost Principles. States may use up to 7 percent of the grant funds for management costs of the grant. The State should include management costs in its application. Subgrantees must include reasonable costs

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to administer the grant as a direct project cost in their budget.

(c) *Progress reports.* The State must provide a quarterly progress report to us under 44 CFR 13.40, indicating the status and completion date for each project funded. The report will include any problems or circumstances affecting completion dates, scope of work, or project costs that may result in non-compliance with the approved grant conditions.

(d) *Financial reports.* The State must provide a quarterly financial report to us under 44 CFR 13.41.

(e) *SMARTLINK Drawdowns.* The State will make SMARTLINK drawdowns to reimburse or advance allowable costs to subgrantees for approved projects.

(f) *Audit requirements.* Uniform audit requirements as set forth in 44 CFR part 13 apply to all grant assistance provided under this subpart. We may elect to conduct a Federal audit on the disaster assistance grant or on any of the subgrants.

(g) If a mitigation measure is not completed, and there is not adequate justification for non-completion, no

Federal funding will be provided for that project.

[66 FR 32669, June 15, 2001, as amended at 74 FR 15353, Apr. 3, 2009]

§ 209.12 Oversight and results.

(a) *FEMA oversight.* Our Regional Administrators are responsible for overseeing this grant authority and for ensuring that States and subgrantees meet all program requirements. Regional Administrators will review program progress quarterly.

(b) *Monitoring and enforcement.* We, subgrantees, and States will monitor the properties purchased under this authority and ensure that the properties are maintained in open space use. We and the State may enforce the agreement by taking any measures that we or they deem appropriate.

(c) *Program results.* The State will review the effectiveness of approved projects after each future flood event in the affected area to monitor whether projects are resulting in expected savings. The State will report to us on program effectiveness after project completion and after each subsequent flood event.

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